

Memorandum

Date : December 28, 2001

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To : William J. Keese, Chairman and Presiding Member
Robert Pernell, Commissioner and Associate Member

From : **California Energy Commission - Cheri Davis**
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Subject : **EAST ALTAMONT ENERGY CENTER STATUS REPORT #4 – December, 2001**

The East Altamont Energy Center (EAEC) Committee's August 24, 2001 scheduling order directed parties to file status reports concerning matters relevant to the schedule. This status report for December 2001, is being filed pursuant to the Committee's order.

KEY EVENTS

- Energy Commission and Western Area Power Administration (Western) staff held a joint workshop on November 14, in Livermore to gather input from the public on this project. Western held this meeting pursuant to the National Environmental Policy Act, in order determine the scope of issues to be addressed in their environmental analysis of the project. Public comments obtained at this particular workshop will be reflected in the Final Staff Assessment / Draft Environmental Assessment (FSA/DEA).
- Staff issued a fourth set of data requests on December 5. The data requests were on the subject of Soil and Water Resources.
- On December 6, Energy Commission and Western staff filed a joint Preliminary Staff Assessment (PSA) / Preliminary Environmental Assessment (Preliminary EA).
- Staff held its first set of workshops on the PSA/Preliminary EA in Livermore on December 18 and 19. The workshop was continued on December 20 in Sacramento for coverage of Transmission System Engineering issues.

UPDATE ON SIGNIFICANT ISSUES

As in the Issues Identification Report, this status report provides an update on issues that have the potential, in staff's judgement, to result in one or more of the following outcomes:

- Significant impacts which may be difficult to mitigate;
- Noncompliance with applicable laws, ordinances, regulations or standards (LORS);
- Conflict or potential conflict between the parties; or
- Delays in the project schedule.

Staff filed its PSA/Preliminary EA on December 6. Due to a variety of factors, staff was unable to reach conclusions in several technical areas. This status report includes an update for all subject areas that could not be fully addressed in the PSA/Preliminary EA.

Air Quality

As of staff's last status report, there were still a number of significant, outstanding air quality issues and, as a result, the PSA/Preliminary EA indicates staff's inability to perform a complete air quality analysis. Since the last status report, staff and the Applicant made progress on some but not all of these issues.

Preliminary Determination of Compliance (PDOC). The PDOC is still not complete, due in part to recent changes made to the project by the applicant. Staff remains concerned about the timing of the Final Determination of Compliance (FDOC) relative to the FSA/Draft EA schedule. Staff understands that the Bay Area Air Quality Management District will not have the PDOC completed until mid-January or later. The FDOC typically follows the PDOC by 60 days. Following this schedule, the FDOC may not be available until mid-March or later, which would significantly delay staff's final document.

Equipment Detail. Staff has been trying to obtain additional information from the applicant regarding key pieces of equipment since the first set of data requests. Over the course of the last two months, staff agreed to withdraw some of the requests because the equipment proposed by the applicant is not as unique as initially thought. At the workshop, the Applicant indicated its intention to fulfill staff's remaining data requests for further information about the duct burners and the auxiliary boiler.

SO₂ Emissions Estimates. Staff has been concerned for some time that the Applicant was underestimating the project's emissions of SO₂ due to an incorrect assumption about the sulfur content of their intended fuel. Staff requested that the Applicant revise their emissions calculations using the highest PG&E-guaranteed sulfur content, unless the Applicant could provide records showing that their assumed sulfur content is realistic. The Applicant indicated at the December 19 workshop that they will provide an analysis of the SO₂ content of the natural gas to be used by the plant in the first week of January.

Best Available Control Technology. Still unresolved is the matter of what constitutes Best Available Control Technology for the EAEC. The applicant has proposed to use selective catalytic reduction (SCR) and oxidation catalysts to minimize the emissions of oxides of nitrogen (NO_x) to 2.5 parts per million (ppm), and carbon monoxide (CO) to 6 ppm, while maintaining the slip of ammonia (NH₃) emissions to 10 ppm. However, the Federal Environmental Protection Agency (EPA), recently determined that BACT for a combustion turbine combined cycle operation should be set at 2 ppm for NO_x, 2 ppm for CO and 5 ppm for ammonia. Staff is recommending that the project mitigate to the above-mentioned EPA-recommended BACT levels, but EPA will not officially comment until after issuance of the PDOC. At the workshop, staff and Applicant agreed that the matter will need to be resolved by EPA after the PDOC is released.

Emission Reduction Credits (ERCs). On November 30, the applicant submitted a revised ERC proposal. With this proposal, the applicant will no longer need to "bank" new ERCs, thus reducing staff's concerns about timing. The applicant proposes to purchase SO₂ credits to offset the project's PM₁₀ emissions. Staff has not yet determined whether the interpollutant ratio proposed by the applicant is sufficient.

Additionally, the San Joaquin Valley Unified Air Pollution Control District (SJVUAPCD) has expressed concern over the sufficiency of the proposed offsets to mitigate impacts to the San Joaquin Valley. The SJVUAPCD believes the Applicant should purchase offsets closer to San Joaquin Valley, and purchase offsets in the amount that would be

required by SJVUAPCD. This would require the applicant to provide additional offsets. These concerns echo those expressed by several members of the public at staff's workshops.

Cumulative Impacts Analysis. Staff continues to argue that the Applicant should be required to include the new community of Mountain House in a cumulative impacts model. Staff filed its brief on this matter November 28, to which the Applicant responded on December 4. Staff filed a reply brief on December 19. Staff understands that this matter will be taken up by the Committee at the Status Conference on January 3.

Biological Resources

While there is still much information needed for staff to be able to draw conclusions regarding the project's potential for impacts to biological resources, some progress has been made as detailed below:

- The applicant submitted a new landscaping plan with the intent of addressing the issues raised at the visual and biological resources issues resolution workshop held on September 12. As noted in Status Report #1, the California Department of Fish and Game (CDFG) and the U.S. Fish and Wildlife Service (USFWS) are opposed to the use of any vegetation around the plant that would provide habitat for predators (e.g., coyotes or raptors) of the area's sensitive species. CDFG and USFWS have not been available to comment on the revised landscaping plan, and staff will rely heavily on input from these agencies before drawing conclusions about the potential for significant impacts. Staff is planning a workshop for early January to bring the agencies, staff, and the applicant to the table for a working session on landscaping options.
- Staff still does not have a determination on whether or not the project's water use will change the quantity or timing of water withdrawals from the Delta during dry months, and therefore cannot determine whether there is the potential for adverse impacts to listed fish species. If staff determines that there is a potential for adverse impacts to fish species, staff will recommend initiation of a second consultation with the National Marine Fisheries Service.
- Staff continues to be concerned about the timing of the Section 7 consultation process; however, staff was assured at the December 19 workshop that the Biological Assessment would be approved by Western imminently. Once approved, Western will formally initiate the Section 7 consultation with the USFWS. The USFWS has 30 days to review the Biological Assessment for completeness and, once accepted, has 135 days to release the Biological Opinion unless the consultation has been extended.

Efficiency and Reliability

Staff raised concerns about the efficiency and reliability of the EAEC in its last status report. Since that time, the applicant submitted two filings that provided additional information about the design and intended operation of the plant. While staff is still cautious about implications for transmission system reliability, staff is withholding judgement until the matter can be discussed with the California Independent System Operator.

Cultural Resources

Western is responsible for evaluating all sites that could be affected by the project for eligibility and effect. Under section 106 of the National Historic Preservation Act, Western must ensure that the cultural resource inventories are adequate to identify all cultural resources, including prehistoric sites, historic sites, and traditional cultural properties (TCP). Western must then consult with the State Historic Preservation Officer (SHPO) on eligibility and effect, and the SHPO must concur with any determination. Western must further consult with any other federal or state land agencies affected by the project, as well as with tribes to identify TCPs.

As noted in the PSA/Preliminary EA, staff identified two resources eligible for the California Register of Historic Resources or the National Register of Historic Places. If any of the sites that were recorded might be affected by the project, Western needs a recommendation of eligibility.

Western does not need SHPO concurrence by the FSA/Draft EA, and therefore staff does not currently believe that the delays in submitting all information to the SHPO will delay staff's schedule.

Land Use

Since the last status report, staff has met with the Alameda County Community Development Agency to discuss their interpretation of the relevant County LORS. Based on this meeting, staff concluded that, while there could be varying interpretations of the language, the County's interpretation was not unreasonable and thus it was appropriate for staff to defer to the County. This view is reflected in staff's preliminary analysis. At the PSA/Preliminary EA Workshop, several members of the public who were involved with the drafting and passage of Measure D, disagreed with the County's interpretation of the language and the conclusion that the project is an allowed use. Staff will consider these conflicting interpretations.

Furthermore, the proposed project site is zoned large parcel agricultural. If not for the Energy Commission's jurisdiction, the project would be required to obtain a conditional use permit. Staff has requested that the County staff make the findings necessary for a conditional use permit, which the Commission staff could evaluate and incorporate into its determination of LORS compliance. Staff has not yet received these conditional use permit findings from Alameda County.

Transmission System Engineering

The Applicant submitted the Detailed Facility Interconnection Study Report conducted by Western and additional information that largely addressed staff's concerns regarding the potential for, and mitigation for, system overloads. Staff received a copy of a letter from PG&E describing the mitigation measures for affected PG&E facilities, and has been told to expect letters from the other affected transmission owners.

On December 20, staff held a workshop on Transmission System Engineering that was attended by the applicant, Western, the California Independent System Operator, and Modesto Irrigation District. This workshop resolved staff's remaining questions, and staff will now be able to complete its analysis for the FSA/Draft EA.

Visual Resources

The Applicant submitted revised Heat Recovery Steam Generator exhaust parameters on November 30th, requiring staff to remodel the potential for plumes. This analysis was not available for inclusion in the PSA/Preliminary EA. Staff's modeling results will be available in early January, and a workshop will be held if parties have questions or concerns about this analysis. Therefore, the visual resources analysis of the potential for plume impacts will appear for the first time in the FSA/Draft EA.

The applicant submitted its revised landscaping plan on November 30th. While staff did not have time prior to the PSA/Preliminary EA to complete an analysis of this new plan, it was discussed at the December 19th workshop. Staff cannot complete a full analysis without simulations of how well the proposed landscaping would screen the EAEC, yet the Applicant understandably does not want to waste time on simulations if the plan is clearly unacceptable from the standpoint of visual and/or biological resource concerns. Staff remains concerned about the ability of the applicant to effectively screen the project, particularly given the concerns of biology staff about the impacts of landscaping to endangered species. Staff is planning a workshop in January to further discuss these issues.

Soil and Water Resources

Staff remains concerned about the project's proposed use of fresh inland water for industrial purposes. In particular, the EAEC could lead to significant adverse impacts as a result of the project relying on the Byron Bethany Irrigation District (BBID) to divert fresh water from the Delta during seasons and in quantities uncharacteristic of BBID's historic patterns of diversion.

Staff recently learned that DWR and BBID may be negotiating an agreement that could resolve these issues. The timing and likelihood of such an agreement is uncertain. Staff will be requesting that DWR submit a letter to formalize their position on the matter.

Additionally, staff has learned that it may be possible for the Mountain House Community Services District to make greater amounts of recycled water available for use by the EAEC than originally presented in the Applicant's AFC. As presented by representatives from Mountain House, it may be possible for the MHCS D to provide 100% of the EAEC's water needs by year 2015. Staff is encouraging BBID, the Applicant, and Mountain House to explore this possibility further.

Meanwhile, staff is continuing its analysis of the feasibility of dry cooling, and alternative sources of recycled water.

SCHEDULE

While progress has been made, several technical areas still lack sufficient information for staff to reach conclusions regarding the project's environmental impacts or conformance with LORS. There is a good deal of information that staff will need to receive and then analyze, and a number of complex issues that must be resolved, between now and the FSA/Draft EA. The following is an updated list of the items needed by staff to complete its FSA:

- The PDOC (expected mid-January or later) and FDOC;
- Emissions data and other data concerning key pieces of equipment for the air quality analysis (expected within the next two weeks);
- A complete cumulative air impacts model;
- A determination on water withdrawals from the Delta and, potentially, a second consultation with NMFS;
- The Biological Assessment (expected within the next week) and draft Biological Opinion; and
- A final landscaping plan from the Applicant, complete with visual simulations.

It is staff's goal to resolve as many of these concerns as possible prior to release of the FSA/Draft EA through issue resolution workshops. However, staff cannot predict the amount of time that will be needed for parties to provide the needed information and for agencies to issue their determinations. For that reason, staff stands by its proposal to link the schedule for the FSA/Draft EA to the receipt of the above-listed pieces of information. Taking into consideration the amount of time necessary for analysis, the extended review period required for Western, and formatting and printing of the document, staff will need at least 45 working days to complete the FSA/Draft EA. Therefore, staff proposes to file the FSA/Draft EA 45 working days after all critical pieces of information and final determinations from the relevant agencies are received.

cc: East Altamont Proof of Service
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